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IN THE

Supreme Court of the United States

October Term, 1971
No. 71-546

LOS ANGELES NEWSPAPER GUILD, LOCAL 69, *et al.*,
Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent,

LOS ANGELES HERALD-EXAMINER, DIVISION OF THE HEARST CORPORATION; and SAN FRANCISCO EXAMINER, DIVISION OF THE HEARST CORPORATION,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

BRIEF FOR EMPLOYER RESPONDENTS IN OPPOSITION.

Jurisdiction.

This Court does not have jurisdiction, because the petition was not timely filed in accordance with 28 U.S.C § 2101(c). See Reason I of Reasons for Denying the Writ, *infra.*

Statutes Involved.

The relevant provisions of the National Labor Relations Act, as amended, 29 U.S.C. § 151, *et seq.* (herein the "Act") are set forth in the Petition at pages 3-5.

28 U.S.C. § 2101(c) provides in relevant part:

> "Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. . . ."

Questions Presented.

1. Is there substantial evidence in the record considered as a whole to support the National Labor Relations Board's findings that The Hearst Corporation does not exercise actual active control over either the Los Angeles Herald-Examiner or the San Francisco Examiner and that neither of those two divisions controls the other?

2. May unincorporated divisions of the same corporation be separate "persons" within the meaning of the secondary boycott provisions of the National Labor Relations Act, 29 U.S.C. § 158(b)(4)(B)?

3. Is there substantial evidence in the record considered as a whole to support the National Labor Relations Board's finding of an unfair labor practice?

Statement.*

On December 15, 1967, following the expiration of collective bargaining agreements between the Los Angeles Herald-Examiner, Division of The Hearst Corporation (herein the "Herald-Examiner") and certain of the Petitioner labor organizations (herein the "Los Angeles unions"), the Los Angeles unions commenced an economic strike which has continued until the present time. On January 4, 1968, in furtherance and in support of the strike against the Herald-Examiner, the Los Angeles unions dispatched pickets to San Francisco where they picketed the San Francisco Examiner, Division of The Hearst Corporation (herein the "San Francisco Examiner"); the Chronicle Publishing Company, publisher of the San Francisco Chronicle; and the San Francisco Newspaper Printing Co., Inc., a joint venture of the Chronicle Publishing Company and the San Francisco Examiner.

Certain of the Petitioner labor organizations (herein the "San Francisco unions") represented various employees of the picketed San Francisco employers. Although the San Francisco unions had unexpired collective bargaining agreements with the picketed employers, they nevertheless ordered their members not to cross the Los Angeles unions' picket lines, and as a result, all three San Francisco employers were forced to cease operations on January 5, 1968.

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*Petitioners have omitted certain material facts from their Statement of the Case; therefore respondents will present an additional statement.

The Hearst Corporation's chief executive officer appoints subsidiary and division heads, including the newspaper publishers. [Tr. 1436-39.]* Upon such appointments, he advises them that:

> "[Y]ou are the executive officer, and you run the business and you run it as if it were yours and yours alone." [Tr. 1439.]

Each division head selects his own personnel and there is no policy or practice of transferring employees among divisions. [Tr. 869, 908, 985.]

Each division head determines an appropriate working cash balance for his respective division. Revenues which exceed the cash balance are remitted to The Hearst Corporation (herein the "Corporation"). [Tr. 1146, 1175, 1231.] Similarly, excess revenues from the corporate subsidiaries are remitted to the Corporation as dividends. [Tr. 1174.] Neither the divisions nor the subsidiaries receive any budgets from the Corporation. [Tr. 910, 1231.] During the National Labor Relations Board (herein the "Board") proceedings there was an exhaustive investigation of all relationships between the Corporation and its divisions, which resulted in a record which is barren of any indication that the Herald-Examiner received any funds whatsoever from the Corporation during the current labor dispute.

There is a Corporation pension plan and a life insurance plan for the various divisions' and subsidiaries' personnel, for whom such benefits are not otherwise available. Participation or non-participation in such plans is determined by each division head and each

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*The reference [Tr. 1436-39] refers the Court to pages 1436-1439 of the official transcript of the Board hearing. Similar references will be used throughout this brief.

division pays its own costs. [Tr. 1028-31, 1197-1206.] Each division and subsidiary secures and maintains its own local medical and hospitalization plans. [Tr. 1204, 1240.]

There are several services owned by the Corporation which are available to some of its divisions and subsidiaries. One such service is Hearst Enterprises, which operates as a contracting agency for some of the newspapers to purchase their newsprint and ink from non-Hearst sources. [Tr. 1007, 1449.] However, there is no corporate requirement that any division utilize the services of Hearst Enterprises or of any other division or subsidiary of the Corporation. [Tr. 885-89, 1082, 1442.] For example, the Herald-Examiner does not utilize the services of Hearst Enterprises for ink purchases, but instead contracts for its own ink supply. [Tr. 1007.]

Division heads incur operational expenses in any amount. [Tr. 1045, 1073, 1111, 1441.] For capital expenditures in excess of $10,000, division heads advise the Corporation. [Tr. 1045, 1072, 1111, 1124, 1179, 1440.] The purpose of this procedure is to apprise division heads of the availability for sale of used equipment from other divisions or subsidiaries of the Corporation. [Tr. 1440.] For many years, no request for a capital expenditure from a division head has been refused or even modified [Tr. 1238-42, 1442], including capital expenditures by the Herald-Examiner of $1,000,000, $600,000 and $500,000. [Tr. 944, 1043.]

George R. Hearst, Jr. is the publisher of the Herald-Examiner. He and his staff, all of whom he has

selected, manage and administer all the affairs of the Herald-Examiner. [Tr. 845.] The entire work force, including Mr. Hearst, is employed and compensated by the Herald-Examiner. [Tr. 908.] The Herald-Examiner does its own accounting and billing; maintains its own bank account, payroll, and personnel records; and, where permitted by law, prepares and files tax returns in its own name. [Tr. 871, 1021, 1073, 1192.] George R. Hearst, Jr. and his staff select all of the vendors with which the Herald-Examiner deals. [Tr. 894.] They also determine the Herald-Examiner's advertising and circulation rates. [Tr. 862.]

There are no Corporation directives or guidelines relating either to the labor relations policy or any other policy of either the Herald-Examiner or any other division or subsidiary of the Corporation. [Tr. 847, 1074.] George R. Hearst, Jr. and his staff determine all of the Herald-Examiner's labor relations policies, including collective bargaining proposals, responses to union proposals, final approval of collective bargaining agreements, and the handling of grievances, arbitrations, and personnel administration. [Tr. 305, 846.]

George R. Hearst, Jr. has the ultimate responsibility for the paper's content, including its editorial policies. [Tr. 902.] William Randolph Hearst, Jr., who is employed by the Corporation, writes a weekly feature column which the Herald-Examiner usually runs because of its popularity, but it is not required to do so. [Tr. 1009.] Some editorials are prepared by members of

the staff of Mr. W. R. Hearst, Jr., but the Herald-Examiner is not required to use any of them and usually does not. [Tr. 1010.] The publisher of the San Francisco Examiner has followed the recommendation of Mr. W. R. Hearst, Jr. on the sole issue of presidential candidate endorsement. However, the chief executive officer of the Corporation testified that this was only Mr. Hearst's personal recommendation and did not carry the Corporation's imprimatur. [Tr. 1443.]

The Herald-Examiner is not required by the Corporation to do business with any other division or subsidiary of the Corporation. [Tr. 885-89, 1082, 1442.] Of the total amount of money expended by the Herald-Examiner during 1967, over 93 percent was spent for goods, materials or services supplied from non-Hearst sources. [Tr. 917-18.]

Charles Gould is the Publisher of the San Francisco Examiner. Mr. Gould's authority directly parallels that of Mr. George R. Hearst, Jr. [Tr. 256, 873-89, 1064-71, 1129, 1442.] There are no Corporation directives, oral or written, which apply either to labor relations or to any other policies of the San Francisco Examiner. [Tr. 1064-71, 1123.] There is no interchange of employees between the Herald-Examiner and the San Francisco Examiner, nor does either perform any work for the other. The San Francisco Examiner has neither sent any employees to the Herald-Examiner nor performed any work for the Herald-Examiner before or since the strike.

REASONS FOR DENYING THE WRIT.

I.

The Petition Was Not Timely Filed.

Congress has provided in 28 U.S.C. § 2101(c) that a petition for a writ of certiorari to bring any judgment or decree in a civil action before this Court for review must be "applied for within ninety days after the entry of such judgment or decree."

In the instant case oral argument was heard before the Court of Appeals on June 3, 1971. On June 7, 1971, the Court of Appeals issued a *per curiam* opinion. (See Appendix.) On the same date the Clerk for the Court of Appeals mailed to all parties a copy of the *per curiam* opinion and the following notice:

> "An opinion in the above case was filed today, and pursuant to Rule 36 of the Federal Rules of Appellate Procedure a judgment was entered denying petition for review, enforcing Board's order. . . .
>
> "Under Rule 40 you have 14 days to file a petition for rehearing. . . ." (See Appendix.)

Thereafter, the Board performed the ministerial act of forwarding to the Court of Appeals the Board's original order modified only to reflect that it was being enforced as the Court's order. On July 21, the order as modified was filed under the title "Judgment" and entered on the docket sheet as "Filed approved Judgment." Petitioners' filed their Petition on October 18, which was within 90 days of July 21, but more than 90 days from June 7.

As noted above, Petitioners were notified on June 7, 1971, that "judgment was entered" and that they

had 14 days to file a petition for rehearing pursuant to Rule 40 of the Federal Rules of Appellate Procedure. Rule 40 provides that "a petition for rehearing may be filed within 14 days after *entry of judgment*. . . ." (Emphasis added.) Petitioners were thus on notice that the Court of Appeals regarded the June 7, 1971 opinion as a final judgment. Compare *Scofield v. NLRB*, 394 U.S. 423 (1969), where this Court ruled that the petition was timely only because:

> "Petitioners here received a copy of the March 5 opinion, but were given no notice of any entry of judgment on that date as would be required by Rule 36 of the new Federal Rules of Appellate Procedure. . . . Since no notice was given . . . it could not have been clear to petitioner whether there was a March 5 judgment or not. . . ." 394 U.S. at 427.

This Court also considered the issue of untimely filing in *Cole v. Violette*, 319 U.S. 581 (1943) (*per curiam*), where the appeal was filed more than the required ninety days after the order of the Supreme Judicial Court of Massachusetts, but within ninety days of the filing of the rescript with the trial court. In dismissing the appeal as untimely, the Court stated:

> "But in determining what is a final judgment or decree . . . we are not controlled by the designation applied to it in state practice. . . . The order of the Supreme Judicial Court of Massachusetts incorporated in its rescript, was an order of the same nature and with the same incidents as those of the highest courts of other states which we review. It was an order of the court, and one which

> finally disposed of all the issues in the case, leaving nothing to be done but the ministerial act of entering judgment in the trial court. The appeal is dismissed on the ground that it was not applied for within the time provided by law." 319 U.S. at 582.

Accord, Dept. of Banking v. Pink, 317 U.S. 264 (1942).

In *FTC v. Minneapolis-Honeywell Regulator Co.,* 344 U.S. 206 (1952), the Federal Trade Commission, after being reversed by the Court of Appeals, moved the court to revise its decree in an immaterial way. The motion was granted and a second decree entered. The Commission then filed its petition for certiorari more than ninety days from the initial decree but within ninety days from entry of the second decree. In finding the petition untimely, the Court stated:

> "The test is a practical one. The question is whether the lower court, in its second order, has disturbed or revised legal rights and obligations which, by its prior judgment, had been plainly and properly settled with finality." 344 U.S. at 212.

In the instant case, the July 21 Judgment of the Court of Appeals did not disturb or revise in any way its earlier judgment. As noted above, the June 7 *per curiam* opinion granted enforcement of the Board's order; the July 21 Judgment merely set forth the Board's order as the judgment of the Court. No sub-

stantive changes were requested or made in the Board's order.*

Petitioners may contend that because the July 21 Judgment was entitled "Judgment," it should be regarded as the final judgment within the meaning of 28 U.S.C. § 2101(c). A similar argument was disposed of by this Court in *Minneapolis-Honeywell Regulator Co., supra,* as follows:

> "Petitioner puts great emphasis on the fact that the judgment of September 18 was labeled a 'Final Decree' by the Court of Appeals, whereas the word 'Final' was missing from the judgment entered on July 5. But we think the question of whether the time for petitioning for certiorari was to be enlarged cannot turn on the adjective which the court below chose to use in the caption of its second judgment. Indeed, the judgment of July 5 was for all purposes final. It put to rest the questions which the parties had litigated in the Court of Appeals. It was neither 'tentative, informal nor incomplete.'" 344 U.S. at 212-13.

See also *United States v. F & M Schaefer Brewing Co.,* 356 U.S. 227, 233 (1958): "[T]here is no statute or rule that specifies the essential elements of a final judgment, and this Court has held that '[n]o form of

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*It should be noted that the Board's order is its standard form for secondary boycotts, and closely follows the statutory language of § 8(b)(4). There could be no dispute between the parties as to the text of either the order or the notice once the Court of Appeals determined that there was a secondary boycott. Thus, this case is distinguishable from the usual § 8(a)(1), (3) or (5) case where after an unfair labor practice is found there could be disputes over the order concerning the amount of backpay or affirmative obligation imposed.

words and no peculiar formal act is necessary to evince [the] rendition [of a judgment]'."

In the instant case the June 7 opinion, which appears in the official report of the case at 443 F.2d 1173, put to rest all questions litigated in the Court of Appeals; none of the parties challenged the form of the Board's order, nor did they propose changes in it or petition for rehearing.

It is therefore submitted that the Petition was not timely filed and is accordingly not within the jurisdiction of this Court.

II.

There Is No Conflict of Decision.

It is well settled that unless two commonly owned enterprises are in fact subject to actual common control, each is a separate "person" and is thus entitled to be insulated from labor disputes which arise at the other. *NLRB v. Teamsters Local 126,* 435 F.2d 288, 291 (7th Cir. 1970); *Sheet Metal Workers Local 223 v. Atlas Sheet Metal Co.,* 384 F.2d 101, 105-107 (5th Cir. 1967); *Miami Newspaper Pressmen's Local No. 46 v. NLRB,* 322 F.2d 405 (D.C. Cir. 1963); *Bachman Machine Co. v. NLRB,* 266 F.2d 599 (8th Cir. 1959); *J. G. Roy & Sons Co. v. NLRB,* 251 F.2d 771 (1st Cir. 1958).

In applying the actual common control test in the above-mentioned cases, the Board and the courts have regarded the presence of the following factors as indicia of actual common control: centralized control of labor relations including collective bargaining policies; occupation of the same premises; common management and supervision; integrated operations; economic dependence by one enterprise upon the other; inter-

change of employees and functions; common records and payrolls; and common public images.

The record of the instant case* strongly supports the conclusion of the Board and the Court of Appeals that the Corporation does not exercise actual control over either the Herald-Examiner or the San Francisco Examiner and that neither division controls the other. The facts are very similar to those in *Miami Newspaper Pressmen's Local No. 46 v. NLRB*, 322 F.2d 405 (D.C. Cir. 1963). In that case the union struck the Miami Herald, a newspaper published by a wholly-owned corporate subsidiary of Knight Newspapers, Inc. When the Herald successfully operated behind the picket line, the union extended the dispute from Miami, Florida to Detroit, Michigan by picketing and shutting down the Detroit Free Press, which was published directly by Knight Newspapers, Inc. The principal issue in the case was whether Knight Newspapers, Inc.—the struck parent corporation—was a primary or a secondary employer. In *Miami Pressmen*, as here, each newspaper had its own local manager who was in charge of labor relations; each had its own collective bargaining agreements; each engaged in union contract negotiations without coordination with the other and without direction or instructions from the common owner; there was insubstantial economic dependence; and there was virtually no employee interchange. The con-

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*The standard for review of Board decisions is that if the Board's findings of fact are supported by substantial evidence on the record considered as a whole, enforcement of the Board's order is required; and an appellate court may not displace the Board's choice between two fairly conflicting views even if it would have decided the issue differently had the matter been before it *de novo*. *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 478-88 (1951).

clusion of the court in that case is equally applicable to the instant case:

> "These two metropolitan daily newspapers appear to have had separate and largely unrelated lives of their own, despite their common ownership. Published hundreds of miles apart in two distinctive urban communities of the United States, each paper went its way under independent direction supplied locally, as they must have done in order to be successfully responsive to the varying needs of their two unrelated readerships. A newspaper reflects in significant measure the peculiar personality of its locale. To the extent that it does so in fact, its commercial success is to that degree correspondingly assured. Wise publishers know this to be true and shape their arrangements and policies accordingly. This appears to be the case here." 322 F.2d at 409.

The only distinction between *Miami Pressmen, supra,* and the instant case is that here both of the commonly owned newspapers are unincorporated divisions of the same corporation.

In sum, the decision of the Court of Appeals in the instant case is not in conflict with other decisions; to the contrary, it is fully consistent with the "actual common control" doctrine which has been adopted by five other circuits.

III.

The Decision Below Is Clearly Correct.

Petitioners' primary contention is that unincorporated divisions of a corporation cannot, as a matter of law, fall within the meaning of the word "person" as defined in § 2(1) and used in § 8(b)(4) of the Act,

because such divisions are part of a "single legal entity." Such a contention is not supported by applicable rules of statutory construction. First, it is noteworthy that in drafting § 2(1) of the Act, Congress did not spell out a rigid or detailed definition of "person." "Person" is defined only by example: "The term 'person' includes one or more individuals, labor organizations, [etc.]. . . ." Congressional choice of the introductory word "includes" demonstrates that the entities listed in § 2(1) are illustrative rather than exclusive. In *Plumbers Local 298 v. County of Door*, 359 U.S. 354 (1959), this Court held that a county could be a "person" notwithstanding the fact that political subdivisions are not expressly included in the definition of "person" in § 2(1) and are expressly excluded from the definition of "employer" in § 2(2). *Accord, Teamsters Local 25 v. New York, N. H. & H. R. Co.*, 350 U.S. 155, 160 (1956) ("[S]ince railroads are not excluded from the Act's definition of 'person,' they are entitled to Board protection. . . ."); *Cf. United States v. Shirey*, 359 U.S. 255, 257 (1959) (Republican Party held to be a "person").

Second, the Board's construction of the word "person" was correctly based upon considerations of substance and economic realities rather than technical form. The cases involving the interpretation of the terms "employer" and "employee" in §§ 2(1) and (2) of the Act are instructive. There, as with the word "person" in the instant case, Congress provided no rigorous definitions. "Employer" is defined in the Act only in terms of "any *person* acting as the agent of an

employer. . . ." This Court analyzed these terms as follows:

> ". . . Realizing that labor disputes and industrial strife are not confined to those who fall within ordinary legal classifications, Congress has not attempted to spell out a detailed or rigid definition of an employee or an employer. . . . As we recognized in the *Hearst* case, [*NLRB v. Hearst Publications*, 322 U.S. 111 (1944)] the terms 'employee' and 'employer' in this statute carry with them more than the technical and traditional common law definitions. They also draw substance from the policy and purposes of the Act, the circumstances and background of particular employment relationships, and all the hard facts of industrial life.
>
> "And so the Board in performing its delegated function of defining and applying these terms, must bring to its task an appreciation of economic realities, as well as a recognition of the aims which Congress sought to achieve by this statute. This does not mean that it should disregard the technical and traditional concepts of 'employee' and 'employer.' But it is not confined to those concepts. It is free to take account of the more relevant economic and statutory considerations. And a determination by the Board based in whole or in part upon those considerations is entitled to great respect by a reviewing court due to the Board's familiarity with the problems and its experience in the administration of the Act." *NLRB v. E. C. Atkins & Co.*, 331 U.S. 398, 403-404 (1947). (Emphasis added.)

Accord, NLRB v. Randolph Electric Membership Corp., 343 F.2d 60, 62 (4th Cir. 1965); *Minnesota Milk Co. v. NLRB*, 314 F.2d 761, 765 (8th Cir. 1963).

Pursuant to these principles, the Board and the courts have consistently ignored the form of business enterprises and looked instead to the underlying economic realities to effectuate the purposes of the Act.* Indeed, the actual common control test as set forth in *Miami-Pressmen, supra,* and as applied in the instant case is clearly adopted to facilitate the Board's task of determining the economic realities and "hard facts of industrial life" as suggested by the Court in *Atkins, supra.*

Petitioners also argue, without citation of authority, that the decision of the Board and Court of Appeals is wrong because "the unions quite obviously were not picketing for the purpose of forcing the Examiner to cease doing business with the Herald-Examiner, nor because the Examiner was doing business with the Herald-Examiner." (Petition, p. 16) However, the picketing did result in a cessation of business among the respective San Francisco employers, as well as with their respective customers, suppliers, and merchan-

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*See, *e.g., Sakrete of No. Calif., Inc.*, 137 NLRB 1220 (1962), *aff'd*, 332 F.2d 902, 905-908 (9th Cir. 1964) (Two corporations treated as one for jurisdictional purposes because of common control). Similarly, in unfair labor practice cases the responsibility for unfair labor practices is coextensive with actual control of labor policies, even if this means disregarding corporate form. See, *e.g., Darlington Mfg. Co. v. NLRB*, 397 F.2d 760, 762-66 (4th Cir. 1968) (Order directed against both employer and its parent corporation); *NLRB v. Patterson Menhaden Corp.*, 389 F.2d 701 (5th Cir. 1968) (Two corporations found to be a single employer); *NLRB v. J. E. McCatron*, 216 F.2d 212 (9th Cir. 1954) (Two partnerships with common labor relations treated as a single employer).

disers. It is well established by both Board and court decisions that picketing for the object of causing secondary employers to cease doing business with each other is sufficient to invoke the application of §8(b)(4)(B) of the Act. The disruption of business relationships need *not* be between the primary and secondary employer. *National Maritime Union v. NLRB,* 342 F.2d 538, 542-43 (2d Cir.), *cert. denied,* 382 U.S. 835 (1956); *NLRB v. Milk Drivers Local 584,* 341 F.2d 29, 32 (2d Cir.), *cert. denied,* 382 U.S. 816 (1965); *Miami Newspaper Pressmen's Local No. 46 v. NLRB,* 322 F.2d 405, 410 (D.C. Cir. 1963).

IV.

There Is No Important Question of Federal Law.

The instant case is an ordinary secondary boycott case governed by the "actual common control" doctrine which has been adopted not only by the Board but by all courts which have had occasion to consider it. Therefore, contrary to Petitioners' assertions, there is no lack of either standards or guidelines for determining whether related employers are primary or secondary. The only interesting aspect of the case is that the Board applied the actual common control test to divisions of the same corporation just as it does to wholly-owned subsidiary corporations.

A contrary decision, far from simplifying or clarifying the law of secondary boycotts, would only add a rule of formalism to the law, making protection from secondary boycotts hinge upon the technical legal form under which an enterprise does business. It is submitted that this case does not present an important federal question inasmuch as an employer could avoid

the adverse application of a decision contrary to the Court of Appeals by merely creating a corporate shell for an otherwise autonomous unincorporated division.

Conclusion.

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Dated: November 15, 1971.

Respectfully submitted,

CHARLES G. BAKALY, JR.,
RICHARD C. WHITE,
Counsel for Los Angeles Herald-Examiner and San Francisco Examiner, Divisions of The Hearst Corporation, Respondents.

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APPENDIX.

UNITED STATES COURT OF APPEALS, FOR THE NINTH CIRCUIT.

Los Angeles Newspaper Guild Local 69, et al.,	)	
Petitioners,	)	
vs.	)	Filed
National Labor Relations Board,	)	Jun 7, 1971
Respondent.	)	Wm. B.
and	)	Luck, Clerk
Los Angeles Herald Examiner, Division of the Hearst Corporation; and San Francisco Examiner, Division of the Hearst Corporation,	)	No. 26,534
Intervenors.	)	

On Petition for Review and Cross Application for Enforcement of an Order of the National Labor Relations Board.

Before: CHAMBERS, ELY and WRIGHT, Circuit Judges.

Per curiam:

The petition for review is denied.

The Board's cross application for enforcement is granted. See the Board's opinion, reported at 185 NLRB No. 25.

Office of the Clerk

United States Court of Appeals for the Ninth Circuit
U. S. Court of Appeals and Post Office Building
7th & Mission Streets, P. O. Box 547
San Francisco, California 94101

June 7, 1971

re: No. 26534 Los Angeles Newspaper Guild vs. NLRB and Los Angeles Herald Examiner, etc.

Dear Sir:

An opinion in the above case was filed today, and pursuant to Rule 36 of the Federal Rules of Appellate Procedure a judgment was entered denying petition for review, enforcing Board's order the judgment or order of the court below (or administrative agency).

Under Rule 40 you have 14 days to file a petition for rehearing. Unless such a petition is filed or the court otherwise orders, the mandate will issue 21 days from today, Rule 41(a). A petition for rehearing *must* comply with Rules 32(b) and 40.

Very truly yours,

William B. Luck,
Clerk of Court